

THE HONORABLE JOHN C. COUGHENOUR

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANTHONY PELAYO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C24-0815-JCC

STIPULATION AND ORDER
STAYING CASE PENDING NINTH
CIRCUIT DECISION

Noted for August 20, 2024

IT IS HEREBY AGREED AND STIPULATED by the Petitioner,

Anthony Pelayo, through his attorney, Neil M. Fox, and the Respondent, the United States of America, by and through Tessa M. Gorman, United States Attorney for the Western District of Washington, and Michael Lang, Assistant United States Attorney for said District, that this matter be stayed pending the *en banc* decision of the Ninth Circuit Court of Appeals in *United States v. Steven Duarte*, No. 22-50048.

On May 9, 2024, a divided panel of the Ninth Circuit issued an opinion in *United States v. Duarte*, 101 F.4th 657 (9th Cir. 2024), finding 18 U.S.C. §

1 922(g)(1) unconstitutional under the Second Amendment as the statute was
2 applied to the defendant. On July 17, 2024, the Ninth Circuit issued an order,
3 over dissent, vacating the panel opinion and ordering the case to be reheard *en*
4 *banc*. *En banc* oral argument will be scheduled the week of December 9, 2024.
5

6 While the issues in *Duarte* are not dispositive of the issues in the instant
7 case, the parties agree that the *en banc* decision in *Duarte* will likely be
8 informative to the parties and the Court. Accordingly, the parties agree to stay
9 the instant case pending the outcome of *Duarte* in the Ninth Circuit.
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12 DATED this 20th day of August 2024.

13 Respectfully submitted,

14 s/ Neil M. Fox
Attorney for Petitioner

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16 TESSA M. GORMAN
United States Attorney

17 s/ Michael Lang
18 Assistant United States Attorney
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ORDER

Based upon the stipulation of the parties (**Dkt. No. 7**) and for good cause shown,

IT IS SO ORDERED.

This matter is stayed pending the outcome of the *en banc* decision of the Ninth Circuit Court of Appeals in *United States v. Steven Duarte*, No. 22-50048. The Petitioner's counsel shall provide the Court with an updated status report by January 1, 2025. When the stay is lifted, the parties shall meet and confer to propose a schedule to the Court for the filing of (1) a Supplemental Memorandum of Law by Petitioner, and (2) the Answer of the United States.

Dated: August 21, 2024.

A handwritten signature in black ink, appearing to read "John C. Coughenour". The signature is fluid and cursive, with the first name "John" and last name "Coughenour" clearly distinguishable.

THE HONORABLE JOHN C. COUGHENOUR